

## REPORTS ANALYSIS DIVISION REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: November 9, 2012

ANALYST: James McAllister

## I. COMMITTEE:

Winning Our Future  
C00507525  
Brent A. Mudd, Treasurer  
2100 Riverside Pkwy, Suite 119 #351  
Lawrenceville, GA 30043

## II. RELEVANT STATUTE:

2 U.S.C. §434(b)(4)  
2 U.S.C. §434(g)(1)  
11 CFR §104.3(b)  
11 CFR §104.4(c)

## III. BACKGROUND:

**Failure to Provide Supporting Schedules (Failure to Timely File 24-Hour Reports)**

Winning Our Future ("the Committee") failed to timely file six (6) 24-Hour Reports totaling \$1,618,146.41 to support seventeen (17) independent expenditures disclosed on the Amended 2012 February Monthly Report, received 3/20/12, made after the 20th day but more than 24 hours before the 2012 Florida Presidential Primary and 2012 South Carolina Republican Presidential Primary Elections (Attachment 2).

On February 20, 2012, the Committee filed its 2012 February Monthly Report covering the period from January 1, 2012 to January 31, 2012, which included a Schedule E (Itemized Independent Expenditures) disclosing thirty-four (34) independent expenditures totaling \$9,219,639.58, made in support of, or in opposition to, two (2) federal candidates. (Images 12950548404-20).

On March 20, 2012, the Committee filed a 2012 Amended February Monthly Report, which included a Schedule E disclosing two-hundred seventy-seven (277) independent expenditures totaling \$9,360,569.68, made in support of, or in opposition to, two (2) federal candidates. The Committee failed to timely file six (6) required 24-Hour

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Reports to support seventeen (17) independent expenditures totaling \$1,618,146.41 (Images 12951298030-168, Attachment 2).

On April 25, 2012, a Request for Additional Information ("RFAI") was sent to the Committee referencing the Amended 2012 February Monthly Report, received March 20, 2012. Among other issues, the RFAI noted that the Committee may have failed to timely file one (1) or more of the required 24-Hour Reports regarding "last minute" independent expenditures. A chart was included with the RFAI identifying the twenty-two (22) independent expenditures, totaling \$1,623,643.31, for which a 24- or 48-Hour Report had not been timely filed (Image 12330005522-4).<sup>1</sup>

On May 1, 2012, Craig Reddy, a Committee representative, called the Reports Analysis Division ("RAD") Analyst regarding the RFAI that referenced the Amended 2012 February Monthly Report. Mr. Reddy asked how he could respond to the RFAI. The Analyst explained that the Committee had already filed the late 24-Hour Reports, so the only other corrective action would be to file a detailed Miscellaneous Electronic Submission ("Form 99") explaining why the 24-Hour Reports were not timely filed. Mr. Reddy said he would confer with his colleagues on how the Committee would respond (Attachment 4).

On May 30, 2012, the Committee filed an Amended 2012 February Monthly Report, disclosing no further changes in the amounts on Schedule E. (Images 12951904236-374).

On June 6, 2012, the Analyst called Brent Mudd, the Committee's Treasurer, and left a voicemail message stating that issues disclosed on the Committee's Amended 2012 February Monthly Report were referable for further action by the Commission. The Analyst stated that if the Committee wanted to provide further clarification on the issue, they could submit additional information for the public record (Attachment 4).

On June 8, 2012, Mr. Reddy called the Analyst. He said that he understood that the issues on the Committee's Amended 2012 February Monthly Report were referable for further action by the Commission. He said he was unsure what he could do to mitigate the issue. The Analyst explained that the Committee could file a detailed Form 99 explaining why the 24-Hour Reports were not timely filed and whatever explanation the Committee provided to the Commission would be taken into consideration. Mr. Reddy said he was unsure how the Committee would respond but that he would confer with other Committee staff to formulate a response (Attachment 4).

On September 11, 2012, the Committee filed a Form 99 in response to the RFAI. The Form 99 stated in part:

"To place this matter in context, [Winning Our Future (WOF)] has to date filed reports itemizing over \$23 million in expenditures, including eighty-

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<sup>1</sup> The dollar amount and number of independent expenditures referenced in this referral is less than what was cited in the RFAI because five (5) of the independent expenditures cited in the RFAI were not referable for further action.

seven 24- and 48-hour reports. A number of the amended 24- and 48-hour reports, it should be noted, were filed in response to RAD's insistence that WOF evenly apportion the cost of national ad buys among every state with a primary or caucus scheduled after the date of the expenditure - a view at odds with the understanding of this Committee and more than a dozen other independent-expenditure committees filing at the same time, and a position that added nothing to public understanding of the committee's spending.

Nonetheless, WOF has met its obligations to submit information in a timely fashion. All regular reporting deadlines were met and amendments were filed upon discovery of previously unavailable information. At all times, it *[sic]* WOF has taken appropriate precautions, such as explaining to vendors the relevant deadlines and information required for 24- and 48-hour reporting, following up with vendors to obtain and confirm information, double-checking its own records, and reconciling committee records with bank statements. When information has been obtained that has necessitated an amendment of a prior report, WOF has taken all reasonable steps to expeditiously file such amendments. The record of this committee's receipts and expenditures is complete and reflects ample diligence and attention to reporting requirements. See Commission's Statement of Policy Regarding Treasurers' Best Efforts from 2007 (Notice 2007-13, 72 FR 31438) (Image 12952877415)."

To date, no further communication has been provided by the Committee regarding this matter.

#### **Failure to Provide Supporting Schedules (Failure to Disclose All Financial Activity)**

The Committee amended its 2012 February Monthly and 2012 March Monthly Reports to disclose additional disbursements totaling \$163,430.10, which were not disclosed in the original reports (Attachment 3).

##### **2012 February Monthly Report**

On February 20, 2012, the Committee filed the original 2012 February Monthly Report covering the period from January 1, 2012 to January 31, 2012. The report disclosed \$9,219,639.58 in disbursements on Line 24 (Independent Expenditures) of the Detailed Summary Page (Image 12950548354).

On March 20, 2012, the Committee filed an Amended 2012 February Monthly Report. The amendment disclosed \$9,360,569.68 in disbursements on Line 24 of the Detailed Summary Page, an increase of \$140,930.10 from the original report (Image 12951297980 and Attachment 3).

On May 30, 2012, the Committee filed an Amended 2012 February Monthly Report that disclosed no further changes in disbursements (Image 12951904186).

## 2012 March Monthly Report

On March 20, 2012, the Committee filed the original 2012 March Monthly Report covering the period from February 1, 2012 to February 29, 2012. The report disclosed \$5,439,394.81 in disbursements on Line 24 (Independent Expenditures) of the Detailed Summary Page (Image 12951298368).

On April 5, 2012, the Committee filed an Amended 2012 March Monthly Report. The amendment disclosed \$5,461,894.81 in disbursements on Line 24 of the Detailed Summary Page, an increase of \$22,500.00 from the original report (Image 12970850663 and Attachment 3).

On June 29, 2012, the Committee filed an Amended 2012 March Monthly Report that disclosed no further changes in disbursements (Image 12952236654).

On August 7, 2012, a Request For Additional Information ("RFAI") was sent to the Committee referencing the Amended 2012 March Monthly Report, received June 29, 2012. The RFAI requested clarification regarding the substantial increases in disbursements on the Amended February Monthly, received May 30, 2012, and Amended March Monthly, received June 29, 2012 Reports (Images 12330010429-31).

On August 21, 2012, Craig Reddy, a committee representative, called the Reports Analysis Division (RAD) Analyst regarding the RFAI referencing the Amended 2012 March Monthly Report, received June 29, 2012. Mr. Reddy asked how the Committee could respond to the RFAI. The Analyst advised Mr. Reddy that the Committee should disclose any additional information to clarify the increases in activity on the public record. The Analyst also informed Mr. Reddy that the issue of increased activity referenced in the RFAI was referable for further action by the Commission. Mr. Reddy said he understood and that the Committee would respond by the due date of the RFAI (Attachment 4).

On September 11, 2012, the Committee filed a Miscellaneous Electronic Submission (Form 99) in response to the RFAI. The Form 99 stated:

"This responds to the Reports Analysis Division's ("RAD") Request for Additional Information ("RFAI") dated August 7, 2012, requesting that [Winning Our Future (WOF)] amend its 2012 February and March monthly reports or explain why additional activity was not included in its original reports. The RFAI indicates that RAD's inquiry was prompted by WOF's amended February and March monthly reports, which were received on May 30, 2012, and June 29, 2012, respectively.

First, to correct the record, all of the expenditures cited in this RFAI were disclosed in amended February and March 2012 monthly reports, which were filed on March 20 and April 5, respectively - not on the May 30 and June 29 reports which concerned unrelated and minor matters.

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Second, as RAD is fully aware, the bulk of the information reported on the February and March amended monthly reports corresponds to information disclosed by WOF on amended 24- and 48-hour reports -- all of which were self-initiated and filed promptly upon discovery of additional or clarifying information. The only item on either of the two monthly reports that does not correspond to an amended 24- or 48-hour report was prompted by an error by vendor Marketel Media, which notified WOF after the February monthly filing deadline that its invoice for a late-January expenditure under-charged WOF \$36,650.10. WOF paid the vendor the additional amount and noted this change in its March amendment to the February monthly report.

To place this matter in context, WOF has to date filed reports itemizing over \$23 million in expenditures, including eighty-seven 24- and 48-hour reports. A number of the amended 24- and 48-hour reports, it should be noted, were filed in response to RAD's insistence that WOF evenly apportion the cost of national ad buys among every state with a primary or caucus scheduled after the date of the expenditure - a view at odds with the understanding of this Committee and more than a dozen other independent-expenditure committees filing at the same time, and a position that added nothing to public understanding of the committee's spending.

Nonetheless, WOF has met its obligations to submit information in a timely fashion. All regular reporting deadlines were met and amendments were filed upon discovery of previously unavailable information. At all times, it [*sic*] WOF has taken appropriate precautions, such as explaining to vendors the relevant deadlines and information required for 24- and 48-hour reporting, following up with vendors to obtain and confirm information, double-checking its own records, and reconciling committee records with bank statements. When information has been obtained that has necessitated an amendment of a prior report, WOF has taken all reasonable steps to expeditiously file such amendments. The record of this committee's receipts and expenditures is complete and reflects ample diligence and attention to reporting requirements. See Commission's Statement of Policy Regarding Treasurers' Best Efforts from 2007 (Notice 2007-13, 72 FR 31438) (Image 12952877415)."

To date, no further communication has been received from the Committee regarding this matter.

O-Index (2011-2012)															
Cmte. ID: C00507525    Cmte. Name: WINNING OUR FUTURE															
Treasurer Name: MUDD, BRENT A.    Address: 2303 RR 620 SOUTH SUITE #135-362, AUSTIN, TX 78734															
Cmte. Type: O (INDEPENDENT EXPENDITURE-ONLY COMMITTEE)    Cmte. Designation: U (UNAUTHORIZED)    Filing Frequency: MONTHLY FILER															
Form Tpl	Rpt Tp	All	Recpt Dt	Pgs	Begin Img#	Begin Cvg Dt	End Cvg Dt	Ltr Mail Dt	Begin Cash	Receipts	Disb	End Cash	Debits	Loans	Debits & Loans
MS-M			12/22/2011	1	11972771166										
MS-O			1/8/2012	2	12330000232										
MS-T			3/20/2012	1	12951253966										
MS-T			3/22/2012	1	12951313362										
MS-T			3/28/2012	1	12951328420										
MS-T			4/19/2012	1	12951523738										
MS-T			9/11/2012	2	12952877415										
RQ2			2/16/2012	3	12330002657			2/16/2012							
RQ2			2/16/2012	3	12330002662			2/16/2012							
RQ2			3/13/2012	3	12330003953			3/13/2012							
RQ2			3/13/2012	3	12330003956			3/13/2012							
RQ2			3/13/2012	3	12330003961			3/13/2012							
RQ2			3/5/2012	3	12330003309			3/5/2012							
RQ2	M2	A	4/25/2012	3	12330005522			4/25/2012							
RQ2	M3	A	5/25/2012	6	12330006929			5/25/2012							
RQ2	M3	A	8/7/2012	3	12330010428			8/7/2012							
RQ2	M4	N	6/19/2012	3	12330008246			6/19/2012							
F3XN	YE	N	1/31/2012	19	12950410333			1/31/2012							
F3XN	M2	N	2/20/2012	70	12950548351			2/20/2012							
F3XA	M2	A	3/20/2012	192	12951297977			3/20/2012							
F3XA	M2	A	5/30/2012	182	12951904183			5/30/2012							
F3XN	M3	N	3/20/2012	52	12951298365			3/20/2012							
F3XA	M3	A	4/5/2012	136	12970850660			4/5/2012							
F3XA	M3	A	6/29/2012	36	12952236651			6/29/2012							
F3XN	M4	N	4/20/2012	98	12951574903			4/20/2012							
F3XN	M5	N	5/18/2012	12	12951852750			5/18/2012							
F3XN	M6	N	6/20/2012	9	12971372708			6/20/2012							
F3XN	M7	N	7/20/2012	9	12952569577			7/20/2012							
F3XN	M8	N	8/20/2012	6	12952791935			8/20/2012							
F3XN	M9	N	9/20/2012	7	12953067062			9/20/2012							
F3XN	M10	N	10/19/2012	7	12960556289			9/30/2012							
F3XN	M12G	N	10/25/2012	8	12940450297			10/17/2012							
F1		N	12/13/2011	6	11030693822										
F3A		A	10/31/2012	4	12961225904										
Totals									\$23,921,505	\$23,700,035					

O-Index (2009-2010)																	
Cmte. ID: C00507525    Cmte. Name: WINNING OUR FUTURE																	
Treasurer Name: MUDD, BRENT A.    Address: 2303 RR 620 SOUTH SUITE #135-362, AUSTIN, TX 78734																	
Cmte. Type: O (INDEPENDENT EXPENDITURE-ONLY COMMITTEE)    Cmte. Designation: U (UNAUTHORIZED)    Filing Frequency: MONTHLY FILER																	
Form	Incl	Rpt	To	All	Recpt Dt	Pgs	Begin Img#	Begin Cvg Dt	End Cvg Dt	Ltr Mail Dt	Begin Cash	Receipts	Disb	End Cash	Debits	Loans	Debits & Loans

No receipts were found for this cycle.

O-Index (2007-2008)													
			Cmte. ID: C00507525			Cmte. Name: WINNING OUR FUTURE							
			Treasurer Name: MUDD, BRENT A.			Address: 2303 RR 620 SOUTH SUITE #135-362; AUSTIN, TX 78734							
			Cmte. Type: O (INDEPENDENT EXPENDITURE-ONLY COMMITTEE)			Cmte. Designation: U (UNAUTHORIZED)			Filing Frequency: MONTHLY FILER				
Form Tpl	Rpt Tp	A/I	Recpt Dt	Pgs	Begin Img#	Begin Cvg Dt	End Cvg Dt	Ltr Mail Dt	Begin Cash	Receipts	Disb	End Cash	Debts & Loans

No records were found for this cycle.

**Winning Our Future (C00507525)**

2012 Amended February Monthly Report, received March 20, 2012

**24-Hour Reports Not Timely Filed**

Name of Payee	Date of Expenditure (Schedule F)	Expenditure Amount	Candidate Supported/ Opposed	State and Date of Election	Amended 24-Hour Report Filed
Craft Media/Digital	1/11/12 <sup>1</sup>	\$68,000.00 24-Hour Report Required	Mitt Romney (Opposed)	South Carolina – 2012 Primary (1/21/12)	1/22/12
Cicero Media LLC	1/11/12	\$110,650.00 24-Hour Report Required	Mitt Romney (Opposed)	South Carolina – 2012 Primary (1/21/12)	2/20/12
Synovation Solutions, LLC	1/11/12	\$85,775.00 24-Hour Report Required	Mitt Romney (Opposed)	South Carolina – 2012 Primary (1/21/12)	2/20/12
Victory Media Group, Ltd.	1/11/12	\$102,744.00 24-Hour Report Required	Newt Gingrich (Supported)	South Carolina – 2012 Primary (1/21/12)	2/20/12
Empire Creative	1/18/12 <sup>2</sup>	\$5,300.00 24-Hour Report Required	Mitt Romney (Opposed)	South Carolina – 2012 Primary (1/21/12)	1/22/12
3dBob Productions	1/18/12	\$38,500.00 24-Hour Report Required	Mitt Romney (Opposed)	South Carolina – 2012 Primary (1/21/12)	2/20/12
Election Connections, Inc.	1/24/12 <sup>3</sup>	\$524,865.51 24-Hour Report Required	Newt Gingrich (Supported)	Florida – 2012 Primary (1/31/12)	2/20/12
3dBob Productions	1/24/12	\$12,000.00 24-Hour Report Required	Newt Gingrich (Supported)	Florida – 2012 Primary (1/31/12)	3/19/12
Cicero Media LLC	1/24/12	\$18,050.00 24-Hour Report Required	Newt Gingrich (Supported)	Florida – 2012 Primary (1/31/12)	3/19/12
Empire Creative	1/25/12 <sup>4</sup>	\$9,650.00 24-Hour Report Required	Newt Gingrich (Supported)	Florida – 2012 Primary (1/31/12)	3/19/12
The Barber Group, Inc.	1/25/12	\$30,000.00 24-Hour Report Required	Newt Gingrich (Supported)	Florida – 2012 Primary (1/31/12)	3/19/12

<sup>1</sup> The original 24-Hour Report for the expenditures made 1/11/12 was received 1/12/12 and did not include the expenditures listed here.<sup>2</sup> The original 24-Hour Report for the expenditures made 1/18/12 was received 1/19/12 and did not include the expenditures listed here.<sup>3</sup> The original 24-Hour Report for the expenditures made 1/24/12 was received 1/25/12 and did not include the expenditures listed here.<sup>4</sup> The original 24-Hour Report for the expenditures made 1/25/12 was received 1/26/12 and did not include the expenditures listed here.



**24-Hour Reports Not Timely Filed (continued)**

Name of Payee	Date of Expenditure (Schedule F)	Expenditure Amount	Candidate Supported/ Opposed	State and Date of Election	Amended Report Filed
Russ Jones Consulting	1/26/12 <sup>4</sup>	\$20,000.00 24-Hour Report Required	Newt Gingrich (Supported)	Florida – 2012 Primary (1/31/12)	2/20/12
Craft Media/Digital	1/26/12	\$34,580.00 24-Hour Report Required	Newt Gingrich (Supported)	Florida – 2012 Primary (1/31/12)	3/20/12
Craft Media/Digital	1/27/12 <sup>6</sup>	\$52,000.00 24-Hour Report Required	Newt Gingrich (Supported)	Florida – 2012 Primary (1/31/12)	2/20/12
Cicero Media LLC	1/27/12	\$196,000.00 24-Hour Report Required	Newt Gingrich (Supported)	Florida – 2012 Primary (1/31/12)	2/20/12
Synovation Solutions, LLC	1/27/12	\$77,100.00 24-Hour Report Required	Newt Gingrich (Supported)	Florida – 2012 Primary (1/31/12)	2/20/12
Election Connections, Inc.	1/27/12	\$232,931.90 24-Hour Report Required	Mitt Romney (Opposed)	Florida – 2012 Primary (1/31/12)	2/20/12
	<b>TOTAL</b>	<b>\$1,618,146.41</b>			

<sup>4</sup> The original 24-Hour Report for the expenditures made 1/26/12 was received 1/27/12 and did not include the expenditures listed here.

<sup>6</sup> The original 24-Hour Report for the expenditures made 1/27/12 was received 1/28/12 and did not include the expenditures listed here.

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### Overview of Additional Disbursements

Report Name	Total Additional Disbursements	Line Number(s)
Amended 2012 February Monthly Report, received 3/20/12	\$140,930.10	24
Amended 2012 March Monthly Report, received 4/5/12	\$22,500.00	24
<b>Total Additional Disbursements</b>	<b>\$163,430.10</b>	

### Additional Disbursements by Line Number

2012 February Monthly/Amended 2012 February Monthly, received 3/20/12

Report Line	2012 February Monthly Report (Image 12950548354)	Amended 2012 February Monthly Report, received 3/20/12 (Image 12951297263)	Variance Amount
Line 24: Independent Expenditures	\$9,219,639.58	\$9,360,569.68	\$140,930.10
		<b>Total Variance:</b>	<b>\$140,930.10</b>

2012 March Monthly/Amended 2012 March Monthly, received 4/5/12

Report Line	2012 March Monthly Report (Image 12951298368)	Amended 2012 March Monthly Report, received 4/5/12 (Image 12970850663)	Variance Amount
Line 24: Independent Expenditures	\$5,439,394.81	\$5,461,894.81	\$22,500.00
		<b>Total Variance:</b>	<b>\$22,500.00</b>